UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MAURICE COLE,   )
)
                          Plaintiff,   )
        vs.   )   No. 1:14-cv-318-TWP-DKL
)
INDIANA DEPARTMENT OF CORRECTIONS,   )
)
                          Defendant.   )

Entry Dismissing Complaint and
Permitting Filing of Amended Complaint

I.

Plaintiff Maurice Cole, is confined at an Indiana prison and sues the Indiana

Department of Corrections ("DOC") pursuant to 42 U.S.C. § 1983. He seeks compensatory and

punitive damages, alleging that his federally secured rights were violated when he was assaulted

by prison staff and thereafter he was not provided with needed medical care.

Mr. Cole is a "prisoner" as defined in 28 U.S.C. § 1915(h) and his complaint is subject to

screening required by 28 U.S.C. § 1915A(b). Pursuant to this statute, "[a] complaint is subject to

dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not

entitled to relief." *Jones v. Bock*, 127 S. Ct. 910, 921 (2007).

As noted, the DOC is the named defendant. The claims against this agency must be

dismissed because they are legally insufficient. The claims against the DOC, based on 42 U.S.C.

§ 1983, are dismissed because states and their agencies do not qualify as "persons" within the

meaning of § 1983. *See Will v. Mich. Dep't of State Police,* 491 U.S. 58, 71 (1989).
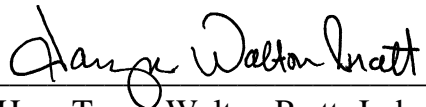
II.

The complaint as filed is dismissed for the reasons explained above. The action, however,

is not dismissed. Mr. Cole shall have through **June 13, 2014**, in which to file an amended

complaint setting forth a viable claim against any defendant that is a "person" who could be liable to him. If an amended complaint is filed it will be screened as required by § 1915A(b). If no amended complaint is filed, the action will be dismissed for the reasons explained in Part I of this Entry.

IT IS SO ORDERED.

Date: _05/14/2014_____

_____
Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Distribution:

Maurice Cole
DOC # 113947
Plainfield Correctional Facility
727 Moon Road
Plainfield, IN 46168